

No: 16/2003/QH11

Hanoi, November 26, 2003

**LAW**

**CONSTRUCTION**

*(No. 16/2003/QH11 of November 26, 2003)*

*Pursuant to the 1992 Constitution of the Socialist Republic of Vietnam, which was amended and supplemented under Resolution No. 51/2001/QH10 of December 25, 2001 of the 10th session of the Xth National Assembly;*

*This Law prescribes construction activities.*

**Chapter I**

**GENERAL PROVISIONS**

**Article 1.-** Scope of regulation

This Law prescribes construction activities; and rights and obligations of organizations and individuals that invest in the construction of works and conduct construction activities.

**Article 2.-** Objects of application

This Law shall apply to Vietnamese organizations and individuals; as well as foreign organizations and individuals, that invest in the construction of works and conduct construction activities in the Vietnamese territory. In cases where an international treaty which the Socialist Republic of Vietnam has signed or acceded to contains provisions different from those of this Law, the provisions of such international treaty shall apply.

**Article 3.-** Interpretation of terms

In this Law, the following terms and phrases shall be construed as follows:

1. Construction activities include the elaboration of construction plans, formulation of projects on investment in work construction, construction surveys, construction work designing, execution of work construction, supervision of work construction, management of projects on investment in work construction, selection of contractors in construction activities and other activities related to work construction.

2. Construction works mean products created by human labor and with building materials and equipment installed therein, affixed to land, which may include underground and ground components, underwater and on-water-surface components and are constructed according to designs. Construction works include public-utility works, dwelling houses, industrial works, traffic works, irrigations works, energy works and other types of works.

3. Equipment installed in works includes work equipment and technological equipment. Work equipment means those installed in construction works according to construction designs. Technological equipment means those included in technological chains installed in construction works according to technological designs.

4. Execution of work construction means the construction, and installation of equipment for newly built, repaired, renovated, relocated, embellished or restored works; dismantlement of works; warranty and maintenance of works.
5. Technical infrastructures system includes traffic, information and communication, energy supply, public lighting, water supply and drainage, waste treatment facilities and other works.
6. Social infrastructures system includes healthcare, cultural, educational, sport, commercial and public service works, greenery, parks, water surface and other works.
7. Red-line demarcation means a boundary line drawn on the planning map and on the field, for purpose of demarcating between land plots permitted for work construction and land plots reserved for traffic roads or other technical infrastructures and public spaces.
8. Construction demarcation means a border line of a work permitted to be constructed on a land plot.
9. Construction planning means the organization of urban space and rural population quarters, and systems of technical and social infrastructures, in order to establish a living environment suitable to people residing in territorial areas, and ensure the harmony between national interest and community interest, meet the socio-economic development, defense, security and environmental protection objectives. A construction planning is demonstrated through a construction planning scheme, consisting of charts, drawings, layouts and explanations.
10. Regional construction planning means the organization of system of population quarters, systems of technical and social infrastructures within the administrative boundaries of a province or several provinces in conformity with requirements of the socio-economic development in each period.
11. Urban construction general planning means the organization of urban space and urban technical and social infrastructures in line with the socio-economic development overall planning, branch development planning, ensuring defense and security of each region and the whole country in each period.
12. Urban construction detailed planning means the concretization of the urban construction general planning's contents, serving as a legal basis for management of the work construction, supply of information, licensing of work construction, land assignment and land lease for execution of projects on investment in work construction.
13. Rural population quarter construction planning means the organization of space and system of technical and social infrastructures of a rural population quarter.
14. Rural population quarter means an area where many households reside and are bound together in their production, daily life and other social activities within boundaries of a specific zone, i.e. a commune center, village, hamlet, buon, phum or soc (hereinafter collectively called village for short) formed on the basis of natural conditions, socio-economic conditions, culture, customs and other factors.
15. Urban designing means the concretization of the contents of the urban construction general planning and detailed planning on architecture of works in urban areas, landscape for each functional quarter or street and other public spaces in urban areas.

16. Work construction investment report means a dossier of intended work construction investment submitted to competent authority(ies) for investment licensing.
17. Work construction investment project means a collection of proposals concerning the contribution of capital for new construction, expansion or renovation of construction works, with a view to developing, maintaining and raising the quality of works, products or services within a given duration. A work construction investment project comprises the explanation and the basic design.
18. Economic-technical report on work construction means a concise work construction investment project which sets forth only basic requirements according to regulations.
19. Construction rules mean regulations to be compulsorily applied to construction activities, promulgated by the State management agencies in charge of construction.
20. Construction standards mean regulations on technical standards, economic-technical norms, order for performing technical jobs, targets, technical indexes and natural indexes, promulgated or recognized by competent agencies or organizations for application in construction activities. Construction standards include compulsory standards and standards encouraged to be applied.
21. Work construction investor means capital owner or person assigned to manage and use capital for investment in work construction.
22. Contractors in construction activities mean organizations and individuals that are fully capable of conducting construction activities or practicing construction when participating in contractual relations in construction activities.
23. Construction general contractor means a contractor signing contracts directly with a work construction investor to undertake completely a type of job or all jobs of a work construction investment project. Construction general contractor takes the following principal forms: engineering general contractor; work construction general contractor; work engineering and construction general contractor; engineering, technological equipment supply and construction general contractor; general contractor for formulation of work construction investment project, work engineering, technological equipment supply and construction.
24. Principal contractor in construction activities means a contractor signing a contract directly with a work construction investor to perform the principal part of a kind of job in a work construction investment project.
25. Sub-contractor in construction activities means a contractor signing a contract with a principal contractor or a construction general contractor to perform a part of job of the principal contractor or general contractor.
26. Separate dwelling house means a work constructed within a residential land area under the use right of a household or an individual according to law provisions.
27. Basic design means a set of documents comprising explanations and drawings demonstrating the principal designing solution, which fully meets the conditions for estimation of total investment capital and serves as basis for deployment of subsequent designing steps.
28. Author's supervision means the designer's supervising activities in the course of work construction in order to ensure that the construction strictly comply with the design.

29. Construction work incidents mean impairments beyond the permitted safety limits, thus putting the construction work in danger of collapse, having caused the collapse of part of the work or the entire work, or rendering it impossible to use the work according to the design.

**Article 4.-** Basic principles in construction activities

Organizations and individuals engaged in construction activities must comply with the following basic principles:

1. Ensuring the compliance of the work construction with the planning and designs; the artistic appearance of works, the protection of the environment and overall landscape; the suitability with natural conditions and socio-cultural characteristics of each locality; combining socio-economic development with national defense and security;
2. Complying with the construction rules and standards;
3. Guaranteeing quality, progress and safety of works, human life, asset, fire and explosion prevention and fighting, environmental sanitation;
4. Ensuring the synchronous construction in each work, synchronous construction of technical infrastructures;
5. Ensuring thrift and efficiency, combating wastefulness, unreasonable loss and other negative phenomena in construction activities.

**Article 5.-** Types and grades of construction works

1. Construction works are divided by type and grade.
2. Types of construction works are determined according to their utility. Each type of construction works is divided into five grades, including special grade, grades I, II, III and IV.
3. Grades of construction works are determined according to types of construction works and based on their sizes, technical requirements, construction materials and lifetime.
4. The Government prescribes the classification of types and grades of construction works.

**Article 6.-** Construction rules and construction standards

1. The system of construction rules and construction standards must be promulgated or recognized by the competent State management agency in charge of construction for uniform application in construction activities.
2. Construction activities must comply with the construction rules and construction standards. In cases where foreign construction standards are applied, the consents of the competent State management agency in charge of construction must be obtained.
3. Organizations and individuals may study and propose construction rules and/or construction standards to the competent State management agency in charge of construction for promulgation or recognition.

**Article 7.-** Construction practicing capability, construction operation capability

1. The construction practicing capability is prescribed for individuals engaged in construction activities. The construction operation capability is prescribed for organizations engaged in construction activities.

2. The construction practicing capability of individuals is determined in grades on the basis of their professional qualifications certified by a lawful specialized training organization, experience and professional ethics. Individuals engaged in construction engineering and planning, construction survey, work designing and/or supervision of work construction, when independently conducting such activities, must have appropriate practice certificates and bear personal responsibility for their work.
3. The construction activity operation of organizations is determined in grades on the basis of construction practicing capability of individuals in such organizations, experience in construction activities, financial status, equipment and managerial capacity of such organizations .
4. Foreign organizations and individuals engaged in construction activities in the territory of the Socialist Republic of Vietnam must meet all the conditions prescribed in Clauses 1, 2 and 3 of this Article and be granted operation licenses by the competent State management agency in charge of construction.
5. The Government prescribes the construction operation capability of organizations, the construction practicing capability of individuals and the granting of construction practice certificates to individuals suitable to different types and grades of works.

**Article 8.-** Supervision of the observance of the construction legislation

1. The National Assembly, the Standing Committee of the National Assembly, the Nationalities Council, the Committees of the National Assembly, the delegations of National Assembly deputies, the National Assembly deputies, the People's Councils, the Standing Boards of the People's Councils, the Boards of the People's Councils, deputies to the People's Councils of all levels shall, within the ambit of their respective tasks and powers, have to supervise the observance of the construction legislation.
2. Vietnam Fatherland Front and its member organizations shall, within the ambit of their respective tasks and powers, have to propagating and mobilize people to observe and supervise the observance of the construction legislation.

**Article 9.-** Encouragement policies in construction activities

The State adopts policies to encourage and create conditions for organizations and individuals to research into and apply advanced construction sciences and technologies, use new construction materials, economically use natural resources and protect the environment; create conditions for organizations and individuals to join in construction activities under plannings in deep-lying and remote regions, regions meeting with exceptional difficulties and flood-prone regions.

**Article 10.-** Acts strictly prohibited in construction activities

In construction activities, the following acts are strictly prohibited:

1. Constructing works in areas where construction is banned; constructing works in encroachment of the protection corridors of traffic or irrigation works, dikes, energy works, zones of historical-cultural relics and protection zones of other works prescribed by law; constructing works in areas prone to landslides or sweeping floods, except for work constructed to combat these calamities;
2. Constructing works in contravention of the planning, in encroachments of demarcation boundaries or construction landmarks; construction works without construction permits, for

works which require construction permits under regulations, or constructing works at variance with the granted construction permits;

3. Contractors conduct construction activities beyond the conditions on construction practicing capability or construction operation capability they meet; selecting contractors who fail to satisfy the condition on construction practicing capability or construction operation capability to perform jobs;

4. Constructing works not in compliance with the construction rules or construction standards;

5. Violating the regulations on safety of human life, asset and environmental sanitation in construction;

6. Building annexes or lean-tos, thus encroaching upon public spaces and places, passages and other yards and grounds already included in the approved and publicized construction plannings;

7. Giving and taking bribes in construction activities; pre-fixing bidding results for self-seeking purposes, selling and purchasing bids, conniving with each other in bidding, making bids lower than the work construction costs in biddings;

8. Abusing positions and powers to violate the construction legislation; tolerating and covering up acts of violating the construction legislation;

9. Obstructing lawful construction activities;

10. Other acts of violation of the construction legislation.

## **Chapter II**

### **CONSTRUCTION PLANNINGS**

#### **Section 1. GENERAL PROVISIONS**

##### **Article 11.- Construction plannings**

1. Construction plannings must be elaborated and approved to serve as basis for subsequent construction activities. Construction plannings shall be elaborated for five years, ten years and long-term development orientation. Construction plannings must be periodically revised and adjusted to be compatible with the socio-economic development situation in each period. The adjustment of the construction plannings must ensure the successiveness of the construction plannings previously elaborated and approved.

2. The State allocates the State budget capital and adopts a policy to mobilize other capital sources for the elaboration of construction plannings. The State budget capital shall be incorporated in annual plans for elaborating regional construction plannings, urban construction general plannings and rural population quarter construction plannings, detailed planning on functional zones not under investment projects on the construction of concentrated works in business form.

3. The People's Committees of all levels shall have to organize the elaboration of construction plannings within the administrative boundaries under their respective management according to decentralization and use such construction plannings as basis for managing construction activities, executing construction investment projects and deploying work construction.

4. Where the People's Committees of all levels are incapable of performing the tasks of elaborating, adjusting and approving construction plannings, they may invite experts or hire consultants to perform such tasks.

5. All organizations and individuals must abide by the construction plannings already approved by the competent State agencies.

**Article 12.-** Categorization of construction plannings

1. Construction plannings are categorized into the following three types:

a/ Regional construction plannings;

b/ Urban construction plannings, including urban construction general plannings and urban construction detailed plannings;

c/ Rural population quarter construction plannings.

2. The Government prescribes the order for elaborating construction plannings, dossiers and scales of assorted maps, and the cost of elaboration of each type of construction planning.

**Article 13.-** General requirements on construction plannings

Construction plannings must meet the following general requirements:

1. Being in line with the socio-economic development overall plannings, development plannings of other branches and land-use plannings; construction detailed plannings must be in line with the construction general planning; ensure national defense and security and create a motive force for socio-economic development;

2. Organizing and arranging territorial space on the basis of rationally exploiting and using the natural resources, land and other resources in compatibility with the natural conditions, historical and socio-economic characteristics, scientific and technological advances of the country in each development period;

3. Establishing a comfortable, safe and sustainable living environment; satisfying higher and higher material and spiritual demands of people; protecting the environment and cultural heritage, conserving historical-cultural relics, natural landscapes, preserving and developing the national cultural identity;

4. Laying the foundation for the work of planning, investment management and construction investment attraction; management, exploitation and use of construction works in urban areas and rural population quarters.

**Article 14.-** Conditions on organizations and individuals designing construction plannings

1. Organizations designing construction plannings must meet the following conditions:

a/ Having registered the construction planning designing activities;

b/ Having adequate and appropriate capability for construction planning designing activities;

c/ Individuals who take up the post of construction planning scheme manager or assume the prime responsibility for specialized designs of construction planning blue prints must have the construction practicing capability and practice certificates suitable to each type of construction planning.

2. Individuals independently practicing the construction planning designing profession must meet the following conditions:

a/ Having the practice capability and certificates for practicing the construction planning designing profession;

b/ Having registered the construction planning designing activities.

The Government prescribes the scope of construction planning designing activities of individuals independently practicing the construction planning designing profession.

## **Section 2. REGIONAL CONSTRUCTION PLANNINGS**

### **Article 15.-** Regional construction planning tasks

1. Responsibility to devise regional construction planning tasks is prescribed as follows:

a/ The Construction Ministry shall devise the tasks of regional construction planning for key regions and inter-provincial regions and submit them to the Prime Minister for approval after obtaining opinions of the concerned ministries, branches and provincial People's Committees;

b/ The People's Committees of the provinces and centrally-run cities (hereinafter collectively referred to as the provincial-level People's Committees) shall devise the tasks of regional construction plannings within the administrative boundaries under their management and submit them to the People's Councils of the provinces and centrally-run cities (hereinafter collectively referred to as the provincial-level People's Councils) for decision.

2. Contents of regional construction planning tasks include:

a/ Forecasts of urban or rural population size in compatibility with the socio-economic development of the regions and the population distribution strategy of the nation for five-year, ten-year or longer periods;

b/ Spatial organization of main industrial establishments, systems of technical and social infrastructures within the region in each period in compatibility with the potentials and the regional general socio-economic development plannings;

c/ Spatial organization of the system of urban areas and population quarters in compatibility with the geographical and natural conditions of each region, ensuring national defense and security as well as the rational exploitation of natural resources of the entire region.

### **Article 16.-** Contents of regional construction plannings

A regional construction planning must have the following principal contents:

1. Determination of a system of urban areas and population quarters in service of industry, agriculture, forestry, tourism, as well as environmental protection zones, natural resource zones and other functional zones;

2. Arrangement of a system of technical infrastructures, spaces and environmental protection measures;

3. Orientation for development of specialized works;

4. Identification of reserve land in service of development demands; efficient use of land.

### **Article 17.-** Competence to elaborate, evaluate and approve regional construction plannings



1. The Construction Ministry organizes the elaboration and evaluation of construction plannings of key regions and inter-provincial regions, then submits them to the Prime Minister for approval after obtaining opinions of the concerned ministries, branches and/or People's Committees.
2. The provincial-level People's Committees shall have to approve construction plannings of regions within administrative boundaries under their respective management after they are decided by the People's Councils of the same level.

**Article 18.-** Adjustment of regional construction plannings

1. A regional construction planning shall be adjusted in one of the following cases:
  - a/ Where the general planning on socio-economic development of the region, the branch development planning of the region; or the defense and security strategy is adjusted;
  - b/ Where the geographical, natural, population and socio-economic conditions change.
2. The competence to approve the adjusted tasks and adjusted regional construction plannings is prescribed as follows:
  - a/ The Prime Minister approves the adjusted tasks and adjusted regional construction plannings of the key regions and inter-provincial regions at the requests of the Construction Ministry after obtaining opinions of the concerned ministries, branches and/or People's Committees;
  - b/ The provincial-level People's Committees devise the adjusted tasks and adjusted construction plannings of regions within the administrative boundaries under their respective management, then submit them to the People's Councils for decision.

**Section 3. URBAN CONSTRUCTION PLANNINGS**

**Article 19.-** Urban construction general planning tasks

1. Responsibility to devise urban construction general planning tasks is prescribed as follows:
  - a/ The Construction Ministry devises the tasks of elaborating general plannings on construction of inter-provincial new urban areas, hi-tech parks and special economic zones, then submits them to the Prime Minister for approval after obtaining opinions of the concerned ministries, branches and/or provincial-level People's Committees;
  - b/ The provincial-level People's Committees devise the tasks of elaborating general plannings on construction of special-type, grade-1 or grade-2 urban areas, then submit them to the People's Councils of the same level for adoption. The Construction Ministry organizes the evaluation and submission thereof to the Prime Minister for approval. For grade-3 urban areas, the provincial-level People's Committees devise the construction general planning tasks, then submit them to the People's Councils of the same level for decision.
  - c/ The People's Committees of urban districts, rural districts, provincial capitals or provincial cities (hereinafter collectively referred to as the district-level People's Committees) devise the tasks of elaborating general plannings on construction of grade-4 and grade-5 urban areas within the administrative boundaries under their respective management, then submit them to the People's Councils of urban districts, rural districts, provincial capitals or provincial cities (hereinafter collectively referred to as the district-level People's Councils) for adoption and submission to the provincial-level People's Committees for approval.
2. Contents of urban construction general planning tasks include:

a/ Determination of characteristics, population sizes, spatial development orientation of urban areas and technical and social infrastructure works for each five-year or ten-year period, and forecast of development orientation of urban areas for a twenty-year period;

b/ Urban construction and renovation general plannings, besides the contents prescribed at Point a, Clause 2 of this Article, must also identify areas subject to ground clearance, areas to be maintained for embellishment, areas to be protected and other specific requirements according to the characteristics of each urban area.

**Article 20.-** Contents of urban construction general planning

1. An urban construction general planning must ensure the determination of the total urban land use ground area according to the population size in each planning period; urban functional zones; population density, land use coefficient and other economic-technical norms of each functional zone and the urban area; the general arrangement of urban technical infrastructures, the determination of construction demarcation and red-line demarcation boundaries of urban main traffic routes, as well as controlled construction landmarks of each zone and the entire urban area.

2. Urban construction general plannings must be designed according to the construction rules and standards, make full use of the terrain, greenery, water surface and natural conditions of the planned places, and preserve the national cultural identity.

3. For urban construction and renovation general plannings, solutions to maintain the existing works and landscapes compatible with the set tasks must be proposed.

**Article 21.-** Competence to elaborate and approve urban construction general planning

1. The Construction Ministry organizes the elaboration of general plannings on construction of new inter-provincial urban areas, hi-tech parks and special economic zones, then submits them to the Prime Minister for approval after obtaining opinions of the concerned ministries, branches and/or provincial People's Committees.

2. The provincial-level People's Committees organize the elaboration of construction general plannings of special, grade-1 and grade-2 urban areas within their respective localities, then submit them to the People's Councils of the same level for adoption. The Construction Ministry shall evaluate and submit them to the Prime Minister for approval. For grade-3 urban areas, the provincial-level People's Committees organize the elaboration of construction general plannings and submit them to the People's Councils of the same level for decision.

3. The district-level People's Committees organize the elaboration of construction general plannings of grade-4 and grade-5 urban areas, then submit them to the People's Councils of the same level for adoption and submission to the provincial-level People's Committees for approval.

**Article 22.-** Adjustment of urban construction general plannings

1. An urban construction general planning shall be adjusted in one of the following cases:

a/ The socio-economic development orientation changes;

b/ For purpose of attracting capital sources for investment in urban construction and other objectives, which do not substantially change the urban development orientation;

c/ Geographical and natural conditions change.

2. Persons competent to approve the planning tasks and urban construction general plannings shall approve the planning-adjusting tasks and adjusted urban construction general plannings.

**Article 23.-** Tasks of elaborating urban construction detailed plannings

1. The district-level People's Committees shall have to devise the tasks of urban construction detailed planning on the basis of the socio-economic development requirements, construction management requirements, requests of work construction investors and opinions of people in the planned zones, which, however, must not be contrary to the approved urban construction general plannings.

2. Contents of urban construction detailed planning tasks include:

a/ Requirements on land use area, scale and scope of detailed planning, urban designing and synchronous designing of technical and social infrastructures in the designed zones;

b/ List of proposed measures to renovate works which should be maintained in the zones planned for renovation;

c/ Other requirements on each designed zone.

**Article 24.-** Contents of urban construction detailed plannings

1. An urban construction detailed planning must have the following principal contents:

a/ Determination of ground plan and land area for construction of assorted works in the zone under the urban construction detailed planning;

b/ Determination of red-line demarcation and construction demarcation boundaries, construction landmarks of technical infrastructures in the zone under the urban construction detailed planning;

c/ Solutions to design the system of urban technical infrastructures, measures to protect landscapes, ecological environment and relevant economic-technical norms;

d/ The urban renovation detailed plannings must propose schemes to renovate the existing works in compliance with the set tasks and in line with the zone construction general planning.

2. Urban construction detailed plannings shall be elaborated on topographic maps and cadastral maps of a scale of between 1/500 and 1/2000, depending on the set planning tasks.

**Article 25.-** Competence to approve urban construction detailed plannings

1. The provincial-level People's Committees approve the detailed plannings on the construction of special, grade-1, grade-2 and grade-3 urban areas.

2. The district-level People's Committees approve the detailed plannings on the construction of grade-4 and grade-5 urban areas.

**Article 26.-** Adjustment of urban construction detailed plannings

1. An urban construction detailed planning shall be adjusted in one of the following cases:

a/ The urban construction general planning is adjusted;

b/ There is a need to encourage or attract investment.

2. Persons competent to approve urban construction detailed plannings shall approve the already adjusted urban construction detailed plannings.

3. The adjustment of urban construction detailed plannings prescribed at Point b, Clause 1 of this Article must obtain opinions of people in the zones under the construction detailed plannings and must not substantially change the construction general planning structure.

**Article 27.-** Urban designing

1. Urban designing includes the following contents:

a/ In an urban construction general planning, the urban designing must prescribe and demonstrate architectural spaces of works, landscape of each street section or the entire urban area, determine the limit height of works in each zone and the entire urban area;

b/ In an urban construction detailed planning, the urban designing must prescribe and demonstrate the construction landmarks of road surface, pavement, work base and floors of works, height, facade architecture, roof architectural features and colors of works in each street section;

c/ The urban designing must express its compatibility with local natural conditions, harmony with natural and artificial landscapes in designing zones; make full use of such factors as water surface and greenery; protect cultural heritage, historical-cultural relics, and preserve national cultural identity.

2. The provincial-level People's Committees promulgate regulations on architectural management in order to manage the construction according to the approved urban designs.

3. The Government specifies the urban designing.

**Section 4. PLANNINGS ON CONSTRUCTION OF RURAL POPULATION QUARTERS**

**Article 28.-** Tasks of elaborating plannings on construction of rural population quarters

1. The commune-level People's Committees devise the tasks of elaborating plannings on construction of rural population quarters, then submit them to the People's Councils of the same level for adoption and submission to the district-level People's Committees for approval.

2. Contents of tasks of planning on rural population quarter construction include:

a/ Forecast of population size increase of rural population quarters in each period;

b/ Spatial organization of production establishments, cottage industries and handicraft and traditional craft villages in rural population quarters;

c/ Development orientation of rural population quarters.

**Article 29.-** Contents of plannings on the construction of rural population quarters

1. Determination of functional zones, systems of technical and social infrastructures, development orientation for each population quarter, designing of dwelling house models suitable to natural conditions, customs and traditions of each region, so as to guide people in the construction thereof.

2. Detailed plannings on construction of commune centers must determine construction positions and areas of works; working offices of agencies, organizations, educational, healthcare, cultural, physical training and sport, commercial and service works and other works.

3. For rural population quarters which tend to exist stably for a long term, when their construction plannings are executed, designs for renovation and embellishment of functional zones, technical and social infrastructure works.

**Article 30.-** Competence to elaborate and approve plannings on the construction of rural population quarters

The commune-level People's Committees organize the elaboration of plannings on the construction of rural population quarters within the administrative boundaries under their respective management, then submit them to the People's Councils of the same level for adoption and submission to the district-level People's Committees for approval.

**Article 31.-** Adjustment of plannings on the construction of rural population quarters

1. A rural population quarter construction planning shall be adjusted in one of the following cases:

a/ The local socio-economic development strategy is adjusted;

b/ The regional construction planning is adjusted;

c/ Geographical and natural conditions change.

2. The district-level People's Committees approve the adjusted tasks and the adjusted plannings on the construction of rural population quarters within administrative boundaries under their management.

## **Section 5. MANAGEMENT OF CONSTRUCTION PLANNINGS**

**Article 32.-** Publicization of construction plannings

1. In the course of elaboration of construction detailed plannings, opinions of concerned organizations and individuals thereon must be gathered according to the tasks of each type of construction planning.

2. Within thirty working days after the construction plannings are approved by the competent State agencies, the People's Committees of all levels shall have to publicize construction detailed plannings within the administrative boundaries under their respective management, for organizations and individuals in the planned areas to know, examine and implement them. For the publicization of the regional construction plannings and construction general plannings, the persons competent to approve them shall decide on the publicized contents.

3. Basing themselves on the approved construction plannings, the provincial-level People's Committees shall have to direct the performance of the following tasks:

a/ Placing construction demarcation markers and construction landmarks on the field;

b/ Determining on the field areas banned from construction.

4. Persons responsible to publicize construction plannings shall be held responsible before law for their failure to publicize, or delayed publicization of, such plannings, thus causing economic damage upon the ground clearance for investment in work construction.

5. For the approved construction detailed plannings, if past three years after they are publicized, they still remain unexecuted or the execution is not up to their requirements, the persons competent to approve construction detailed plannings shall have to apply remedies and notify

such to the organizations and individuals in the planning areas. Where a construction detailed planning cannot be executed, it must be adjusted or cancelled and subsequently re-publicized according to the provisions of Clause 2 of this Article.

**Article 33.-** Supply of information on construction plannings

1. Construction management agencies of all levels shall have to supply information on, and grant certificates of, construction plannings to work construction investors when there appear demand for investment in construction within their scope of assigned management responsibilities.

2. The supply of information shall take the following forms:

a/ Publicization of the construction planning blueprints, including: charts, layouts and drawings of the construction planning;

b/ Explanation of the construction planning;

c/ Supply of construction planning certificates.

3. Construction planning certificates contain information on land use; regulations on system of technical infrastructures, architecture, safety in fire and explosion prevention and fighting; environmental protection and other regulations according to the construction detailed planning.

**Article 34.-** Contents of management of construction plannings

1. The management of construction plannings covers the following principal contents:

a/ Promulgation of regulations on plannings, architecture and policies for attracting construction investment according to the manager's competence;

b/ Management of construction of works under the construction plannings;

c/ Management of landmarks on the field;

d/ Management of synchronous construction of urban technical infrastructures;

dd/ Suspension of the construction, imposition of administrative sanctions and coercion of the dismantlement of works illegally constructed, constructed in contravention of construction permits, or constructed not in compliance with construction plannings.

2. Persons competent to manage construction plannings according to decentralization shall be held responsible before law for their assigned management jobs and have to compensate for damage caused to the State or people by their late decisions or decisions issued ultra vires.

**Chapter III**

**WORK CONSTRUCTION INVESTMENT PROJECTS**

**Article 35.-** Work construction investment projects

1. When investing in work construction, investors shall have to formulate projects for the examination and assessment of their socio-economic efficiency, except for the cases prescribed in Clauses 3 and 5 of this Article. The formulation of work construction investment projects must comply with the provisions of this Law and other relevant law provisions.

2. Work construction investment projects are categorized according to their sizes, natures and investment capital sources. Contents of work construction investment projects shall be elaborated in compatibility with requirements of each type of project.

3. For the following construction works, only economic-technical reports must be elaborated:

a/ Works used for religious purposes;

b/ Small-sized construction works and other works prescribed by the Government.

4. An economic-technical report of a construction work defined in Clause 3 of this Article shall present the necessity of the investment, objectives of the work construction; construction location; size, capacity and grade of the work; funding source(s) for construction of the work; the construction duration; the work efficiency; fire and explosion prevention and fighting; construction designing drawings and work cost estimation.

5. When investing in construction of separate dwelling houses, the work construction investors shall not have to formulate the work construction investment projects and economic-technical reports but shall only have to compile the dossier of application for construction permits, except for works defined at Point d, Clause 1, Article 62 of this Law.

**Article 36.-** Requirements on work construction investment projects

1. A work construction investment project must satisfy the following principal requirements:

a/ Being in line with the socio-economic development planning, the branch development planning and the construction planning;

b/ Having appropriate designing scheme and technological scheme;

c/ Ensuring safety in the construction, operation, exploitation and use of the work, safety in fire and explosion prevention and fighting and environmental protection;

d/ Ensuring the socio-economic efficiency of the project.

2. For large-sized construction works, before formulating projects, the work construction investors shall have to compile and submit reports on work construction investment to the competent authorities for investment licenses.

The principal contents of a work construction investment report include the necessity of investment, projected investment scale and investment form; analysis and preliminary selection of technologies, preliminary determination of total investment capital, plans for mobilizing capital sources, capability to retrieve invested capital and repay loans; preliminary calculation of the project's investment efficiency in the socio-economic respect.

3. For work construction investment projects funded with the State capital, apart from satisfying the requirements prescribed in Clause 1 of this Article, the determination of construction costs must conform with the economic-technical norms and targets promulgated and guided for implementation by the competent State management agency in charge of construction. For work construction investment projects funded with the official development assistance (ODA) capital, the reciprocal capital must be allocated in time.

**Article 37.-** Contents of work construction investment projects

Contents of a work construction investment project include:

1. The explanation, which shall be elaborated depending on the type of work construction investment project and include the following principal contents: objectives, location, size, capacity, technology, economic-technical solutions, capital source(s) and total investment

capital, investor and project management form, investment form, duration, efficiency, fire and explosion prevention and fighting and environmental impact assessment;

2. The basic design, which shall be made to suit each specific work construction investment project and include the explanation and drawings demonstrating the architectural solutions; size, main structure; site plan, elevation and cross section of the work; technical solutions and construction solutions; technology, equipment and facilities of the work, main category of construction materials used in work construction.

**Article 38.-** Conditions to be met by organizations and individuals formulating work construction investment projects

1. Organizations which formulate work construction investment projects must meet the following conditions:

a/ Having registered the operation of formulating work construction investment projects;

b/ Having the construction operation capability suitable to the work of formulating work construction investment projects;

c/ Having persons fully capable of practicing the profession of formulating work construction investment projects suitable to the requirements of the work construction investment projects, who can take up the post of project formulation manager; individuals taking part in the project formulation must have practicing capability suitable to each type of work construction investment project.

2. Individuals who independently practice the profession of formulating work construction investment projects must meet the following conditions:

a/ Having registered activities of formulating work construction investment projects;

b/ Having capability to practice the profession of formulating work construction investment projects.

The Government prescribes the scope of activities of formulating work construction investment projects of independent practicing individuals.

**Article 39.-** Evaluation of, and decision on, investment in work construction investment projects

1. Work construction investment projects, before being decided for investment, must be evaluated according to the Government's regulations.

2. The Prime Minister decides on the investment in projects on construction of national important works after the National Assembly adopts the investment undertaking. The Government prescribes the competence to decide on investment in other work construction investment projects.

3. Organizations and individuals evaluating work construction investment projects shall be held responsible before law for their evaluation results. Persons deciding on investment in work construction shall be held responsible before law for their decisions.

**Article 40.-** Adjustment of work construction investment projects

1. The already approved work construction investment projects shall be adjusted in one of the following cases:



- a/ Natural calamities, enemy sabotage or force majeure circumstances occur;
- b/ There appear factors which may bring about higher efficiency;
- c/ The construction planning changes.

2. Adjusted contents of work construction investment projects must be permitted by the investment deciders and must be re-evaluated. Persons deciding on adjustment of work construction investment projects shall be held responsible before law for their decisions.

**Article 41.-** Rights and obligations of work construction investors in the formulation of work construction investment projects

1. Work construction investors shall have the following rights in the formulation of work construction investment projects:

- a/ To formulate work construction investment projects by themselves when they satisfy the conditions for doing so;
- b/ To negotiate, sign and supervise the performance of contracts;
- c/ To request the concerned organizations to supply information and documents in service of the formulation of work construction investment projects;
- d/ To suspend the performance of, or terminate contracts when the contractors for project formulation consultancy breach the contracts;
- dd/ Other rights provided for by law.

2. Work construction investors shall have the following obligations in the formulation of work construction investment projects:

- a/ To hire consultants to formulate projects in cases where they fail to fully satisfy the conditions on capability to formulate work construction investment projects by themselves;
- b/ To determine contents of tasks of work construction investment projects;
- c/ To supply information and documents related to work construction investment projects to work construction investment project formulation consultants.
- d/ To organize the pre-acceptance test, evaluation and approval of work construction investment projects according to their competence or submit them to the competent authorities for evaluation and approval;
- dd/ To properly perform the already signed contracts;
- e/ To archive dossiers of work construction investment projects;
- g/ To make compensations for damage caused by the use of consultants unsuitable to the capability to formulate work construction investment projects or supply of untruthful information; evaluation and pre-acceptance test not in compliance with the regulations and other acts of violation causing damage due to their faults.
- h/ Other obligations provided for by law.

**Article 42.-** Rights and obligations of contractors providing work construction investment project formulation consultancy

1. Contractors providing work construction investment project formulation consultancy shall have the following rights:

a/ To request investors to supply information and documents related to the formulation of work construction investment projects;

b/ To reject unlawful requests of investors;

c/ Other rights provided for by law.

2. Contractors providing work construction investment project formulation consultancy shall have the following obligations:

a/ To undertake to formulate only work construction investment projects suitable to their own construction operation capability;

b/ To perform the jobs strictly according to the signed contracts;

c/ To bear responsibility for the quality of the formulated work construction investment projects;

d/ Not to disclose information and documents related to the formulation of work construction investment projects they have undertaken without permission of the hiring party or the competent persons;

dd/ To make compensations for damage caused by the use of inappropriate information, documents, construction rules and standards, technical solutions and other acts of violation causing damage due to their faults;

e/ Other obligations provided for by law.

**Article 43.-** Management of expenses for work construction investment projects

1. Expenses for work construction investment projects must be calculated and managed to ensure the efficiency of projects.

2. The management of expenses for work construction investment projects funded with the State capital source must be based on the economic-technical norms and other relevant regulations promulgated by competent State agencies.

3. For work construction investment projects funded with other capital sources, investors and contractors may refer to the provisions of Clause 2 of this Article to sign contracts.

**Article 44.-** Rights and obligations of persons deciding on the work construction investment

1. Persons deciding on the work construction investment have the following rights:

a/ Not to approve work construction investment projects when the conditions on objectives and efficiency are not met;

b/ To suspend the execution of work construction investment projects which have already been approved or are being executed when they deem it necessary;

c/ To change or adjust objectives and/or contents of work construction investment projects;

d/ Other rights provided for by law.

2. Persons deciding on the work construction investment have the following obligations:

a/ To organize the evaluation and approval of work construction investment projects;

- b/ To inspect the execution of work construction investment projects;
- c/ To be held responsible before law for contents of their decisions approving work construction investment projects, decisions suspending the execution of work construction investment projects and other decisions issued according to their competence;
- d/ Other obligations provided for by law.

**Article 45.-** Contents and modes of management of work construction investment projects

1. Contents of management of work construction investment projects include the management of quality, volume, progress, labor safety and construction environment.
2. Basing themselves on capability conditions of organizations and individuals, investment deciders and work construction investors shall decide to choose one of the following modes of management of work construction investment projects:
  - a/ Work construction investors hire organizations to provide consultancy on management of work construction investment projects;
  - b/ Work construction investors directly manage work construction investment projects.
3. When the mode of direct management of work construction investment projects by the investors mentioned at Point b, Clause 2 of this Article is applied, if the work construction investors set up the project management boards, such boards shall be held responsible before law and answerable to the work construction investors for the performance of their assigned tasks and powers.
4. The Government specifies the contents and modes of management of work construction investment projects, conditions on capability of organizations and individuals managing work construction investment projects.

**Chapter IV**

**CONSTRUCTION SURVEY AND DESIGNING**

**Section 1. CONSTRUCTION SURVEY**

**Article 46.-** Construction surveys

1. Construction surveys include topographic survey, engineering geological survey, hydrogeological survey, survey of actual state of works and other surveying activities in service of construction activities.
2. Construction surveys shall only be conducted according to the already approved surveying tasks.

**Article 47.-** Requirements on construction survey

Construction surveys must satisfy the following requirements:

1. Surveying tasks must conform with requirements of each type of job or each designing step;
2. The truthfulness, objectivity and fidelity to realities must be ensured;
3. Volume, content and technical requirements of construction surveys must conform with the surveying tasks, construction rules and standards;

4. For engineering geological surveys, apart from the requirements in Clauses 1, 2 and 3 of this Article, the seasonal erosiveness and fluctuation degree of underground water level must also be determined to propose appropriate preventing and combating measures. For large-sized works and important works, observation surveys of environmental impacts thereon in the course of construction and use must also be conducted.

5. Survey results must be appraised and tested before acceptance according to law provisions.

**Article 48.-** Contents of reports on construction survey results

1. A report on construction survey results has the following principal contents:

a/ Survey bases, process and methods;

b/ Analysis of data, assessment and survey results;

c/ Conclusions on survey results, proposals.

2. The Construction Ministry specifies the contents of construction survey reports.

**Article 49.-** Conditions on organizations conducting construction surveys

1. Organizations conducting construction surveys must meet the following conditions:

a/ Having registration of construction survey activities;

b/ Having full capability to conduct construction surveys;

c/ Each construction survey task must be performed by a construction survey manager fully capable of practicing construction profession and having valid practice certificate. Construction survey managers shall be designated by the construction survey contractors. Individuals engaged in each construction survey job must have professional qualifications suitable to their assigned tasks;

d/ Machinery and equipment in service of construction surveys must meet the quality requirements, ensure safety for the surveying work and protect the environment.

2. Laboratories in service of construction surveys must satisfy all the prescribed standards and be recognized by the competent State management agency in charge of construction.

**Article 50.-** Rights and obligations of work construction investors in the construction survey

1. Work construction investors shall have the following rights in the construction survey:

a/ To perform construction surveys by themselves when they fully satisfy the capability conditions therefor;

b/ To negotiate, sign and supervise the performance of contracts;

c/ To adjust surveying tasks at reasonable requests of designers;

d/ To suspend the performance of, or terminate contracts according to law provisions;

dd/ Other rights provided for by law.

2. Work construction investors shall have the following obligations in the construction survey:

a/ To approve the surveying tasks devised by the designers or the survey contractors, and assign them to the survey contractors;

- b/ To choose construction survey contractors in cases where they fail to fully satisfy the conditions on capability to conduct construction surveys by themselves;
- c/ To supply information and documents related to the construction survey to the construction survey contractors;
- d/ To determine the survey scope and ensure conditions for the construction survey contractors to perform the contracts;
- dd/ To properly perform the signed contracts;
- e/ To organize the pre-acceptance test and archival of survey results;
- g/ To make compensations for damage caused by the supply of inappropriate information and documents, wrongful determination of surveying tasks and other acts of violation causing damage due to their fault;
- h/ Other obligations provided for by law.

**Article 51.-** Rights and obligations of construction survey contractors

1. Construction survey contractors have the following rights:

- a/ To request the investors to supply data and information related to the surveying tasks;
- b/ To reject requests beyond the surveying tasks;
- c/ Other rights provided for by law.

2. Construction survey contractors have the following obligations:

- a/ To sign contracts only for the performance of surveying jobs suitable to their operation capability, and properly perform the signed contracts;
- b/ To properly perform the assigned surveying tasks, ensure quality and take responsibility for survey results;
- c/ To propose and add surveying tasks when detecting factors which may directly affect the designing solutions;
- d/ To protect the environment in the surveyed zones;
- dd/ To purchase insurance for professional liability;
- e/ To make compensations for damage caused by improper performance of the surveying tasks, which gives rise to extra volumes due to impractical surveys, improper use of information, documents, construction rules and standards, and other acts of violation causing damage due to their fault;
- g/ Other obligations provided for by law.

**Section 2. WORK CONSTRUCTION DESIGNS**

**Article 52.-** Requirements on work construction designs

1. Work construction designs must satisfy the following general requirements:

- a/ Being in line with the construction planning, suitable to landscapes, natural conditions and regulations on architecture; as well as compatible with the approved work construction investment projects;
- b/ Being compatible with technological designs in cases where work construction investment projects contain technological designs;
- c/ Work foundations must be firm, and must neither sink, split nor deform beyond the permitted limit, thus affecting the lifetime of works and adjacent works;
- d/ Contents of work construction designs must conform with requirements of each designing step, satisfy the utility requirement; ensure the artistic appearance and reasonable prices;
- dd/ Safety, thrift and conformity with the applied construction rules and standards; standards on fire and explosion prevention and fighting, environmental protection and relevant standards; public-utility works must be designed according to the standards for the disabled;
- e/ Ensuring synchronism in each work, meeting the requirements on operation and use of works; being harmonious with relevant works.

2. For civil works and industrial works, apart from the requirements prescribed in Clause 1 of this Article, the following requirements must also be satisfied:

- a/ Work architecture must be suitable to traditions, customs, socio-cultural conditions of each region or locality;
- b/ Human safety upon occurrence of incidents; conditions for safe, convenient and effective fire-fighting and rescuing activities; proper distances between works, use of fire-fighting materials, equipment and facilities to limit impacts of fire on adjacent works and surrounding environment;
- c/ Comfortable, sanitary and health conditions for users;
- d/ Maximization of natural advantages and minimization of natural disadvantages for purpose of economical use of energy.

**Article 53.-** Contents of work construction designs

A work construction design includes the following principal contents:

1. Technological plans;
2. Utility;
3. Architectural plans;
4. Lifetime of the work;
5. Structure and technical plans;
6. Fire and explosion prevention and fighting plans;
7. Plans on energy use with high efficiency;
8. Environmental protection solutions;
9. Total cost estimates and construction cost estimates compatible with each construction designing step.

**Article 54.-** Work construction designing steps

1. The work construction designing consists of the following steps: basic design, technical design and construction drawing design.
2. Depending on the nature and size of each type of work, a work construction design may be made through one step, two steps or three steps as follows:
  - a/ One-step designing means construction drawing design applicable to works for which only economic-technical report is to be made;
  - b/ Two-step designing consists of basic design step and construction drawing design step, applicable to works for which work construction investment projects must be formulated;
  - c/ Three-step designing consists of basic design step, technical design step and construction drawing design step, applicable to large-sized and complicated works for which work construction investment projects must be formulated.
3. For works subject to two-step or three-step designing, subsequent design steps shall commence only when earlier design steps are approved.

The Government specifies design steps for each type of works and contents of design steps.

**Article 55.-** Contests for selecting construction work architecture designs

1. Contests for selecting architecture designs of construction works are encouraged.
2. For the following works, before construction investment projects are formulated, contests for selecting architecture designs must be held:
  - a/ Offices of State agencies of district or higher levels;
  - b/ Large-sized cultural, sport and public-utility works;
  - c/ Other works with special architecture.
3. Expenses for selection contests shall be calculated into total investment capital of construction works.
4. Authors of selected architecture design plans shall have their copyright protected, and be given priority to perform the subsequent designing steps if they fully satisfy the conditions on capability for construction designing.
5. The Government specifies the contest for selecting work construction architecture designs.

**Article 56.-** Conditions on organizations and individuals performing the work construction designing

1. Organizations performing the work construction designing must meet the following conditions:
  - a/ Having registered the work construction designing operation;
  - b/ Fully satisfying the conditions on capability for work construction designing operation;
  - c/ Individuals taking up the post of designing manager or designing responsible person must have the capability to practice the profession of construction designing and practice certificates suitable to requirements of each type and grade of work.

2. Individuals independently practicing the profession of work construction designing must meet the following conditions:

- a/ Having the capability and certificates for practicing construction designing profession;
- b/ Having registered the work construction designing profession practice.

The Government prescribes the scope of work construction designing profession practice by individuals independently practicing the work construction designing profession.

3. For the construction designing of separate dwelling houses:

a/ For separate dwelling houses having a total construction floor area of over 250 m<sup>2</sup> each, with three stories or more and being located in cultural heritage zones or historical-cultural relics, the designing must be conducted by organizations and/or individuals having full capability for construction designing operation or construction designing practice;

b/ For separate dwelling houses which are smaller than those mentioned at Point a of this Clause, individuals and households may organize the designing by themselves, provided that it conforms with the approved construction planning, and they shall be responsible before law for designing quality and impacts of such works on the environment and safety of adjacent works.

**Article 57.-** Rights and obligations of work construction investors in the work construction designing

1. Work construction investors have the following rights in the work construction designing:

a/ To conduct the work construction designing by themselves if they fully satisfy the conditions on capability for work construction designing operation or practice suitable to each work type or grade;

b/ To negotiate, sign and supervise the performance of designing contracts;

c/ To request the designing contractors to properly perform the signed contracts;

d/ To request amendments and/or supplements to the designs;

dd/ To suspend the performance of, or terminate the contracts on work construction designing according to law provisions;

e/ Other rights provided for by law.

2. Work construction investors have the following obligations in the work construction designing:

a/ To select work construction designing contractors in cases where they fail to fully satisfy the conditions on capability for work construction designing operation or practice to conduct the designing by themselves;

b/ To determine the work construction designing tasks;

c/ To supply adequate information and documents to designing contractors;

d/ To properly perform the signed contracts;

dd/ To evaluate and approve or submit to the competent agencies for evaluation and approval designs according to the provisions of this Law;



- e/ To organize the pre-acceptance test of designing dossiers;
- g/ To archive designing dossiers;
- h/ To make compensations for damage caused by the elaboration of designing tasks, supply of information and documents and pre-acceptance test of designing dossiers in contravention of regulations and other acts of violation causing damage due to their faults;
- i/ Other obligations provided for by law.

**Article 58.-** Rights and obligations of work construction designing contractors

1. Work construction designing contractors have the following rights:

- a/ To reject requests beyond the designing tasks;
- b/ To request the supply of information and documents in service of the designing work;
- c/ To have copyright over work designs;
- d/ Other rights provided for by law.

2. Work construction designing contractors have the following obligations:

- a/ To undertake contracts only for work construction designing suitable to their capability for work construction designing operation or work construction designing practice;
- b/ To properly perform the designing tasks, ensuring the set progress and quality;
- c/ To bear responsibility for quality of designs they undertake;
- d/ To exert the author's supervision in the course of construction;
- dd/ To elaborate construction survey tasks in service of the designing work and suitable to requirements of each designing step;
- e/ Not to designate manufacturers of work construction materials, supplies and equipment;
- g/ To purchase professional liability insurance;
- h/ To make compensations for damage caused by the elaboration of inappropriate surveying tasks, or the use of inappropriate information, documents, construction rules and standards, technical or technological solutions which affect the work quality, and other acts of violation causing damage due to their faults;
- i/ Other obligations provided for by law.

**Article 59.-** Evaluation and approval of work construction designs

1. Basic designs must be evaluated by the competent State management agency in charge of construction upon approving work construction investment projects.
2. Subsequent designing steps shall be evaluated and approved by the investors but must not be contrary to the already approved basic designs.
3. Persons who evaluate and approve designs shall be held responsible before law for their evaluation and approval results.
4. The Government prescribes the competence for, and contents of the evaluation and approval of work construction designs.

**Article 60.-** Changes in work construction designs

1. The already approved work construction designs shall be changed only in cases where the adjustment of work construction investment projects requires changes in designs or in other necessary cases.
2. Persons competent to decide on changes in designs shall be held responsible before law for their own decisions.
3. The Government specifies the changes in work construction designs.

**Article 61.-** Archival of construction work designing dossiers

1. Construction work designing dossiers must be archived. Archival duration shall correspond to lifetime of works.
2. For construction works of important historical, political, economic, cultural, scientific and technical, defense and security significances, the work designing dossiers must be perpetually kept in the national archives.
3. The Government specifies the archival of construction work designing dossiers.

**Chapter V**

**CONSTRUCTION OF WORKS**

**Section 1. CONSTRUCTION PERMITS**

**Article 62.-** Construction permits

1. Before starting the construction of works, the investors must obtain construction permits, except for the construction of the following works:
  - a/ Works involving the State secrets, works constructed under emergency orders, makeshift works in service of the construction of principal works;
  - b/ Works constructed along the routes not running through urban areas but in line with the construction planning and with construction investment projects already approved by competent State agencies;
  - c/ Small-sized technical infrastructures in deep-lying and remote communes;
  - d/ Separate dwelling houses in deep-lying and remote areas not in urban areas, densely populated quarters or rural population quarters for which no construction planning has been approved;
  - dd/ Works undergoing repair, renovation or installation of interior equipment, which does not alter the architecture, force-bearing structure and safety of works.
2. For separate dwelling houses in rural areas, regulations on construction permits must conform with actual situation of such localities. The district-level People's Committees shall specify the densely populated quarters in geographical areas where construction permits are required.
3. For the construction of works and separate dwelling houses in regions under the construction plannings which have already been approved and publicized but not yet implemented, only temporary construction permits with definite durations corresponding to the planning implementation durations shall be granted.

**Article 63.-** Dossiers of application for construction permits

1. Depending on the nature and size of works, a dossier of application for construction permit comprises the following principal documents:

- a/ An application for construction permit;
- b/ Work construction designing drawings;
- c/ Papers on the land use right according to the land legislation.

2. For works and separate dwelling houses specified in Clause 3, Article 62 of this Law, the dossiers of application for work construction permits must, apart from documents prescribed in Clause 1 of this Article, also included written commitments of the construction work owners to dismantle their works when the State implements the construction planning.

**Article 64.-** Contents of construction permits

1. Principal contents of a construction permit include:

- a/ Location and position for the work construction, the work construction line;
- b/ Work type and grade;
- c/ Work construction landmarks;
- d/ Red-line demarcation and construction demarcation boundaries;
- dd/ Environmental and work safety protection;
- e/ For civil works and industrial works in urban areas, apart from the contents specified at Points a, b, c, d and e, Clause 1 of this Article, there must be contents on ground area for work construction, height of each story, maximum height of the entire work, colors of the work.
- g/ Other contents prescribed for each type of work;
- h/ Validity of the permit.

2. The Government specifies the granting of work construction permits.

**Article 65.-** Conditions for granting permits for construction of urban works

The granting of permits for construction of urban works must meet the following conditions:

1. Being in line with the approved construction detailed planning;
2. Observing the regulations on red-line demarcation and construction demarcation boundaries; urban designing; meeting the requirements on safety of adjacent works; ensuring the corridor for protection of traffic works, irrigation works, dikes, energy works, cultural heritage zones, historical-cultural relics and zones for protection of other works according to law provisions;
3. Construction works and separate dwelling houses in cultural heritage conservation zones and historical-cultural relics must ensure rational construction density, land areas for greenery, parking places and must not affect landscapes and the environment;
4. Works repair or renovation must not affect the structure of the adjacent works, must ensure the prescribed distances to neighboring works, water supply and drainage, air ventilation, lighting, environmental sanitation, fire and explosion prevention and fighting;
5. Ensuring the prescribed distances, for sanitariums, toxic chemical depots and other works which may cause environmental pollution, so as not to affect users of adjacent or neighboring works;

6. When street thoroughfares are constructed or renovated, the systems of underground tunnels must be built for installation of synchronous systems of technical infrastructures; road-surface construction landmarks must comply with the construction landmarks of the construction planning and urban designs;

7. For high-rises of special grade or grade I, there must be designs of basements, except for other cases requiring separate basement designing;

8. For make-shift construction works, the granting of construction permits must comply with the provisions of Clause 3, Article 62 and Clause 2, Article 63 of this Law.

**Article 66.-** Competence to grant construction permits

1. The provincial-level People's Committees grant construction permits for large-sized construction works, works with particular architecture, religious works and other construction works within the administrative boundaries under their respective management according to the Government's regulations.

2. The district-level People's Committees grant construction permits for construction works in urban areas and centers of commune clusters within the administrative boundaries under their respective management, except for construction works defined in Clause 1 of this Article.

3. The commune-level People's Committees grant construction permits for separate dwelling houses in rural population quarters under the already approved construction plannings and population quarters which, according to the regulations of the district-level People's Committees, require construction permits, within the administrative boundaries under their respective management.

**Article 67.-** Responsibilities of the agencies granting construction permits

1. To publicly post up and guide the regulations on granting of construction permits.

2. To grant construction permits within no more than 20 working days after receiving complete and valid dossiers; for separate dwelling houses, the above-said time limit shall not exceed 15 days.

3. To inspect the execution of construction according to permits, suspend the construction and/or withdraw construction permits when the work construction investors commit violations.

4. Persons competent to grant construction permits shall be held responsible before law and make compensations for damage caused by their wrong granting or delayed granting of construction permits.

5. To notify the competent agencies not to provide electricity; water, business and other services for works constructed not under planning, constructed without permits or constructed not in compliance with the granted construction permits.

6. To settle complaints and denunciations about the granting of construction permits.

**Article 68.-** Rights and obligations of construction permit applicants

1. Construction permit applicants have the following rights:

a/ To request the construction permit-granting agencies to explain, guide and implement strictly the regulations on construction permit granting;

b/ To lodge complaints and denunciations against law-breaking acts in the construction permit granting;

c/ To start the construction of works if after the time limit prescribed in Clause 2, Article 67 of this Law the permit-granting agencies give no written reply and the conditions prescribed in Clauses 1, 3, 4, 5, 6 and 7, Article 72 of this Law are fully met.

2. Construction permit applicants have the following obligations:

a/ To submit complete construction permit application dossiers and pay fully the permit-granting fee;

b/ To bear responsibility for the truthfulness of construction permit application dossiers;

c/ To notify in writing the construction starting date to the People's Committees of communes where works are to be constructed within seven working days before starting the work construction;

d/ To observe strictly the contents of the construction permits; to obtain approval of the construction permit-granting agencies when making adjustments or changes in the designs.

## **Section 2. GROUND CLEARANCE FOR WORK CONSTRUCTION**

**Article 69.-** Requirements on ground clearance for work construction

The ground clearance for work construction must satisfy the following requirements:

1. The construction ground clearance must be planned. Plans on construction ground clearance shall be expressed in work construction investment projects and approved simultaneously with such work construction investment projects;

2. For projects requiring the resettlement, the plans or projects on resettlement must be worked out and executed before the ground clearance;

3. The scope of construction ground clearance must conform with the construction detailed planning and the approved construction investment projects;

4. The time limit for construction ground clearance must comply with the requirements on the progress of executing the approved projects or the competent persons' decisions.

**Article 70.-** Principles for property compensation for work construction ground clearance

1. The property compensation for construction ground clearance must ensure the State's interests, legitimate rights and interests of the concerned organizations and individuals. For dwelling houses of organizations and individuals, there must be stable new places of residence with conditions equal to or better than the old places, supports in job creation and life stabilization for persons subject to re-settlement, except for cases where the concerned parties otherwise agree upon.

2. The property compensation for construction ground clearance shall be made in one or a combination of forms, i.e. in money, with land use right or dwelling house ownership right and must ensure the fairness, publicity, transparency and legality.

3. For case of property compensation for ground clearance for construction of technical infrastructures in urban areas, the construction ground clearance plans must ensure both the construction of new works and the embellishment of existing roadside works according to the

approved construction detailed planning; and ensure that the State can regulate the land value difference after the ground clearance and work construction investment.

4. The compensation shall not be made in the following cases:

a/ Illegally encroached land;

b/ Construction works built in contravention of permits, architectures, trees, cash crops and other assets appearing or arising within the planned construction ground after the construction plannings are publicized;

c/ Other cases prescribed by the land legislation.

**Article 71.- Organization of the work construction ground clearance**

1. When organizing the work construction ground clearance, construction ground clearance compensation councils must be set up.

2. For case of construction ground clearance under the approved construction plannings while no work construction investment projects are available, the construction ground clearance compensation shall be made as follows:

a/ The competent People's Committees shall organize the ground clearance through the construction ground clearance compensation councils set up by themselves or assign the enterprises specialized in ground clearance to perform such task;

b/ Funding for ground clearance is allocated from the State budget or mobilized and retrieved upon the assignment or lease of land to work construction investors having projects on the cleared ground;

c/ Duration for construction ground clearance shall comply with the local socio-economic development requirements and the competent persons' decisions.

3. For case of construction ground clearance according to work construction investment projects, the construction ground clearance compensation shall be made as follows:

a/ For investment projects for business purposes, the construction ground clearance compensation councils set up principally by the work construction investors in coordination with the competent People's Committees shall organize the ground clearance; for work construction investment projects not for business purposes but in service of the community, the construction ground clearance compensation councils set up principally by the competent People's Committees in coordination with the work construction investors shall organize the ground clearance;

b/ Funding for ground clearance shall be taken directly from the work construction investment projects;

c/ The duration for construction ground clearance must satisfy the execution progress of the approved work construction investment projects.

4. The Government prescribes the principles, methods and brackets of property compensation rates applicable to the construction ground clearance, which shall serve as basis for the provincial-level People's Committees to determine compensation rates in their respective localities.

5. Organizations and individuals having assets within the construction grounds, for which the compensation has been made in strict compliance with regulations, but failing to abide by the ground clearance decisions, shall be coerced to do so and bear all expenses for the coercion.

6. Those who intentionally act in contravention of the regulations on property compensation for construction ground clearance for self-seeking purposes or cause damage to assets of the State, organizations and/or individuals shall, depending on the seriousness of their violations, be disciplined or examined for penal liability, or if causing damage, they shall have to make compensations therefor according to law provisions.

### **Section 3. CONSTRUCTION OF WORKS**

#### **Article 72.-** Conditions for starting the work construction

Construction works shall be started only when they meet the following conditions:

1. Having construction grounds for hand-over in whole or in part according to the construction progress, as agreed upon by the work construction investors and the construction contractors;
2. Having construction permits, for works requiring construction permits as prescribed, except for the cases prescribed at Point c, Clause 1, Article 68 of this Law;
3. Having the approved construction drawing designs of items or works;
4. Having construction contracts;
5. Having adequate capital sources to ensure the work construction progress according to the progress already approved in the work construction investment projects;
6. Having measures to ensure the safety and environmental sanitation in the construction course;
7. For new urban areas, depending on their characteristics and sizes, the technical infrastructures must be partially or wholly constructed before the work construction is started.

#### **Article 73.-** Conditions for carrying out the work construction

1. Contractors, when carrying out the work construction, must meet the following conditions:
  - a/ Having registered the work construction operation;
  - b/ Having full capability for work construction operation corresponding to work types or grades;
  - c/ Having construction-site commanders with appropriate capability for practicing the work construction profession;
  - d/ Having construction equipment up to the work safety and quality requirements.
2. Individuals who organize by themselves the construction of separate dwelling houses with the total construction floor area of under 250 m<sup>2</sup> each or less than three stories must have capability for practicing the work construction profession and bear responsibility for quality, safety and environmental sanitation.

#### **Article 74.-** Requirements on construction sites

Signboards must be put up on all construction works at the construction sites. The contents of signboards include:

1. Names of work construction investors, total investment capital, data of construction commencement and date of construction completion;
2. Names of constructing units, names of construction-site commanders;
3. Names of designing units, names of designing managers;
4. Names of organizations or persons supervising the work construction;
5. Work construction investors, construction-site commanders, designing managers, organizations or persons supervising the work construction, apart from clearly inscribing their names and titles, must also inscribe their contact addresses and telephone numbers.

**Article 75.-** Rights and obligations of work construction investors in the work construction

1. Work construction investors have the following rights in the work construction:

a/ To carry out the work construction themselves if they have full and appropriate capability for work construction activities;

b/ To negotiate, sign and supervise the performance of, contracts;

c/ To suspend the performance of, or terminate, contracts with construction contractors according to law provisions;

d/ To stop the work construction and request remedies for consequences caused by violations of the regulations on work quality, safety and environmental sanitation committed by the work construction contractors;

dd/ To request the concerned organizations and individuals to coordinate in performing jobs in the course of work construction;

e/ Not to pay for the value of low-quality or unreasonably arising construction volumes;

g/ Other rights provided for by law.

2. Work construction investors have the following obligations in the work construction:

a/ To select contractors having full and appropriate capability for work construction to carry out work construction activities;

b/ To join the competent People's Committees or assume the prime responsibility for, and coordinate with the competent People's Committees in, clearing and handing over the construction grounds to the work construction contractors;

c/ To organize the supervision of work construction;

d/ To examine the measures to ensure the safety and environmental sanitation;

dd/ To organize the pre-acceptance test, payment and settlement of works;

e/ To hire consultancy organizations having full construction operation capability to test the quality of works when necessary;

g/ To examine and decide on contractors' proposals related to designs in the course of work construction;

h/ To respect the work design copyright;



i/ To purchase the insurance for works;

k/ To keep dossiers of works;

l/ To make compensations for damage caused by contract breaches to the work construction contractors, pre-acceptance tests with untruthful results on work quality and other acts of violation causing damage due to their faults;

m/ To bear responsibility for their own decisions; to be responsible for ensuring the set work construction progress, quality and efficiency;

n/ Other obligations provided for by law.

**Article 76.-** Rights and obligations of work construction contractors

1. Work construction contractors have the following rights:

a/ To reject unlawful requests;

b/ To propose design modifications to make designs more suitable to realities, thus ensuring quality and efficiency of works;

c/ To request the payment for value of completed construction volumes strictly according to the contracts;

d/ To stop the work construction if the employers fail to strictly perform their commitments in the signed contracts, thus causing obstacles and damage to contractors;

dd/ To request compensations for damage caused due to faults of the work construction hirers;

e/ Other rights provided for by law.

2. Work construction contractors have the following obligations:

a/ To properly perform the signed contracts;

b/ To carry out the construction strictly according to the designs, construction standards, ensuring quality, progress, safety and environmental sanitation;

c/ To compile work construction diaries;

d/ To test construction materials and products;

dd/ To manage construction workers in the construction sites, ensure security and order, without affecting the surrounding population quarters;

e/ To make construction completion drawings and take part in the pre-acceptance test of works;

g/ To provide work warranty;

h/ To purchase assorted insurance according to the provisions of the insurance legislation;

i/ To make compensations for damage caused by breaches of contracts, use of construction materials of wrong categories or construction activities which are not up to the standards or cause environmental pollution, and other acts of violation causing damage due to their faults;

k/ To bear responsibility for the quality of construction works they are in charge of;

l/ Other obligations provided for by law.

**Article 77.-** Rights and obligations of designing contractors in the work construction

1. Designing contractors have the following rights in the work construction:

- a/ The rights provided for in Clause 1, Article 58 of this Law;
- b/ To request the work construction investors and work construction contractors to strictly comply with their designs;
- c/ To reject requests for unreasonable design changes of the work construction investors;
- d/ To refuse to make pre-acceptance test of works or work items if they are constructed not according to the designs.

2. Designing contractors have the following obligations in the work construction:

- a/ The obligations provided for in Clause 2, Article 58 of this Law;
- b/ To appoint fully capable persons to exert the author's supervision according to regulations; persons appointed by the designing contractors to perform the task of author's supervision shall be held responsible before law for their acts of violations in the course of performing the obligation of author's supervision and have to compensate for damage caused due to their faults;
- c/ To take part in the pre-acceptance test of works at requests of the work construction investors;
- d/ To consider and solve irrationalities in the designs at requests of the work construction investors;
- dd/ To detect and promptly notify to the work construction investors of the work construction contractors' construction not in accordance with the approved designs and propose handling measures.

**Article 78.-** Safety in the work construction

In the course of work construction, the work construction contractors shall have to:

- 1. Apply measures to ensure safety for people, machines, equipment, assets and works under construction, underground works and adjacent works; machines and equipment in service of construction must go through safety tests before being used;
- 2. Apply separate technical safety measures to work items or jobs with stringent safety requirements;
- 3. Apply necessary measures to minimize human and material losses when any unsafe circumstance occurs in the construction.

**Article 79.-** Assurance of environmental sanitation in the work construction

In the course of work construction, the work construction contractors shall have to:

- 1. Apply measures to ensure the environmental sanitation in the course of work construction, including requirements on air environment, water environment, solid waste, noise and other requirements on environmental sanitation;
- 2. Make compensations for damage caused by environmental sanitation-related violations they commit in the course of construction and transport of construction materials;
- 3. Comply with other provisions of the legislation on environmental protection.

**Article 80.-** Pre-acceptance test and hand-over of construction works

1. The pre-acceptance test of construction works must comply with the following regulations:
  - a/ Regulations on management of quality of construction works;
  - b/ Pre-acceptance test shall be made upon each job, each part, each stage and each work item and pre-acceptance test for putting works into use. Particularly for hidden parts of works, the pre-acceptance test and construction completion drawings must be made before the subsequent jobs are carried out;
  - c/ Pre-acceptance test shall be made only when the to be-tested objects are completed and the dossiers thereon are complete;
  - d/ Works shall be put into pre-acceptance test for use only when they satisfy the design requirements, ensure the quality and are up to the prescribed standards.
2. The hand-over of construction works must comply with the following regulations:
  - a/ Satisfying the requirements on principles, contents and order for handing over completed construction works for being put into use according to the provisions of construction legislation;
  - b/ Ensuring safety in the operation and exploitation when the works are put into use.
3. The work construction contractors shall have to finish the construction, clear the construction sites, make construction completion drawings and prepare documents in service of the pre-acceptance test and hand-over of the works.
4. The work construction investors shall have to organize the pre-acceptance test and reception of works. Persons taking part in the pre-acceptance test and hand-over of works shall bear personal responsibility for products certified by them in the course of work construction and work hand-over.

**Article 81.-** Payment and settlement in construction activities

1. The contractors shall have to compile dossiers on payment or settlement of already performed work volumes. The work construction investors shall have to make payment to the contractors according to the pre-acceptance tested volumes.
2. The work construction investors shall make the settlement of work investment capital within 12 months after the works are handed over and put into use, except otherwise provided for by law.
3. Persons responsible for payment and/or settlement shall be held responsible before law for their jobs and shall have to make compensations for damage incurred due to their late or improper payment and settlement.
4. The Government specifies the payment and settlement in construction activities.

**Article 82.-** Warranty for construction works

1. The work construction contractors shall have to provide warranty for works; the work equipment supply contractors shall have to provide warranty for work equipment.
2. Contents of warranty for works include: repair and replacement of damaged or faulty equipment, correction of abnormal operation of works caused due to the contractors' faults.
3. The work warranty duration shall be determined according to work types and grades.

4. The Government specifies the work warranty duration.

**Article 83.-** Regular maintenance of construction works

1. Owners or use-managers of works shall have to regularly maintain works, machines and work equipment.

2. The regular maintenance of works, work facilities and equipment must be conducted according to the instructions and regulations of the designers and manufacturers.

3. The regular maintenance of works shall be determined according to work types and grades.

4. The Government specifies the regular maintenance of works.

**Article 84.-** Construction work incidents

1. In the course of construction, operation, exploitation or use of works, if work incidents occur, the work construction contractors, owners or use-managers shall have to:

a/ Stop the construction, operation, exploitation or use of works, and apply prompt measures to ensure safety for people and assets;

b/ Apply necessary measures to limit and prevent further possible dangers to the works and promptly notify such to the competent and concerned organizations and individuals;

c/ Protect incident scenes, except for cases where the incidents must be urgently remedied to limit damage.

2. Upon receiving notices on work incidents, the competent organizations and individuals shall, within the ambit of their respective tasks and powers, have to:

a/ Promptly apply urgent measures to remedy the incidents;

b/ The competent State management agencies in charge of construction shall have to designate organizations with full expertising capability to identify causes of work incidents and clarify liabilities of subjects causing such work incidents.

3. Persons at fault causing work incidents shall have to make compensations for damage and related expenses or shall be examined for penal liability.

**Article 85.-** Relocation of works

1. The relocation of a work must comply with the approved construction planning and ensure its architectural and quality intactness.

2. Before relocating works, the work construction investors must apply for permits. Relocation permits shall be granted by the provincial-level People's Committees.

3. Contractors that conduct the work relocation shall have to apply measures to ensure the labor safety and safety for relocated works and adjacent works, as well as the environmental sanitation.

**Article 86.-** Dismantlement of construction works

1. The dismantlement of construction works shall be conducted in the following cases:

a/ For clearance of grounds for construction of new works; or dismantlement of make-shifts defined in Clause 2, Article 94 of this Law;

b/ Works are in danger of collapse, which may affect the community and adjacent works;

c/ Works are constructed in the areas banned from construction defined in Clause 1, Article 10 of this Law;

d/ Works are constructed not in accordance with the construction plannings, works constructed without permits as prescribed, or works constructed at variance with the contents prescribed in the permits;

dd/ Other cases prescribed by law.

2. The dismantlement of construction works must satisfy the following requirements::

a/ The dismantlement of works shall only be conducted under decisions of competent State agencies;

b/ The dismantlement of works must be conducted according to the already approved dismantlement solutions, ensuring safety and environmental sanitation.

3. Responsibilities of parties involved in the dismantlement of construction works are prescribed as follows:

a/ Persons who are assigned to organize the work dismantlement shall have to implement the provisions in Clause 2 of this Article; shall be held responsible before law and have to compensate for damage caused due to their faults;

b/ Persons who currently own or use works subject to the dismantlement according to the provisions in Clause 1 of this Article shall have to abide by decisions of competent State agencies. Those who fail to abide by such decisions shall be subject to forced dismantlement of their works and bear all expenses for the dismantlement;

c/ Persons with responsibility to decide on the work dismantlement shall be held responsible before law for consequences of their failure to issue decisions, untimely decisions or illegal decisions.

#### **Section 4. SUPERVISION OF WORK CONSTRUCTION**

##### **Article 87.-** Supervision of work construction

1. All construction works must be subject to the supervision regime in the course of construction.

2. The supervision of work construction must be conducted to monitor and inspect the quality, volumes, progress, labor safety and environmental sanitation in the work construction.

3. The work construction investors must hire supervision consultants or conduct the supervision by themselves when they fully satisfy the conditions on capability for construction supervision activities.

Persons conducting the construction supervision must have certificates for practicing the construction supervision profession compatible with jobs, work types and grades.

4. The application of the supervision regime to the construction of separate dwelling houses is encouraged.

##### **Article 88.-** Requirements on the work construction supervision

The work construction supervision must satisfy the following requirements:

1. Being conducted upon the commencement of the work construction;

2. Being regular and constant in the course of construction;
3. Being based on the approved designs, the applied construction rules and standards;
4. Being truthful, objective and non-self-seeking.

**Article 89.-** Rights and obligations of work construction investors in the work construction supervision

1. Work construction investors have the following rights in the work construction supervision:

a/ To conduct the supervision by themselves when they have full capability for construction supervision;

b/ To negotiate and sign contracts, monitor and supervise the performance of contracts;

c/ To change or request the consultancy organizations to change supervisors in cases where the supervisors fail to strictly comply with the regulations;

d/ To suspend the performance of, or terminate contracts on work construction supervision according to law provisions;

dd/ Other rights provided for by law.

2. Work construction investors have the following obligations in the work construction supervision:

a/ To hire supervision consultants in cases where they fail to fully satisfy the capability conditions to conduct the supervision by themselves;

b/ To notify the concerned parties of the rights and obligations of supervision consultants;

c/ To handle promptly suggestions of supervisors;

d/ To fully perform the obligations already agreed upon in the construction supervision contracts;

dd/ Not to act in collusion or exert their influences to falsify the supervision results;

e/ To keep the construction supervision results;

g/ To make compensations for damage caused by selection of supervision consultants who fail to satisfy the conditions on capability for construction supervision, inaccurate pre-acceptance volume test, construction not in accordance with designs and other acts of violation causing damage due to their fault;

h/ Other obligations provided for by law.

**Article 90.-** Rights and obligations of work construction supervision contractors

1. Work construction supervision contractors have the following rights:

a/ To conduct pre-acceptance test and certification when works are constructed in accordance with the designs, the construction rules and standards and ensure the quality;

b/ To request the construction contractors to properly perform the contracts;

c/ To reserve their opinions on supervision jobs they undertake;

d/ To reject unreasonable requests of the concerned parties;

dd/ Other rights provided for by law.

2. Work construction supervision contractors have the following obligations:

a/ To perform the supervision job strictly according to the signed contracts;

b/ Not to accept the volumes not up to the prescribed quality and technical standards required by the work designs;

c/ To refuse to conduct the pre-acceptance test of works if they fail to meet the quality requirements;

d/ To propose the work construction investors the designing irrationalities for timely modification;

dd/ To purchase professional liability insurance;

e/ Not to act in collusion with the construction contractors and/or the work construction investors, and commit other acts of violation to falsify supervision results;

g/ To make compensations for damage caused by the falsification of supervision results on construction volumes implemented not in accordance with the designs, not in compliance with the construction rules and standards, which have not been reported by the supervisors to the work construction investors or competent persons for handling, and other damage-causing acts of violation committed due to their faults;

h/ Other obligations provided for by law.

## **Section 5. CONSTRUCTION OF SPECIAL-TYPE WORKS**

### **Article 91.- Special-type construction works**

Special-type construction works include:

1. State-secret works;
2. Works constructed under urgent orders;
3. Make-shift works.

### **Article 92.- Construction of State-secret works**

1. State-secret works shall be constructed with requirements to protect the secrets in construction activities, in the defense, security, economic, scientific and technological and other domains.
2. Persons assigned to manage and construct State-secret works shall have the right to decide on and be responsible for constructing and organizing the construction of works from the stages of project formulation, survey, designing, construction and construction supervision of works to the stage of pre-acceptance test and putting of works into use.
3. The Government shall decide on the construction of each State-secret work whenever there appears the demand therefor.

### **Article 93.- Construction of works under urgent orders**

1. Works constructed under urgent orders shall be constructed to promptly meet the requirements of the natural calamity and enemy sabotage prevention and combat, and other urgent requirements according to the regulations of the Government.

2. Persons assigned to manage the construction of works under urgent orders may decide by themselves the order of survey, designing and construction, suitable to the requirements of emergency circumstances, and shall be responsible for constructing and organizing the construction of such works, in order to minimize the possible human and material losses.

**Article 94.-** Construction of make-shift works

1. Make-shift works shall be constructed and allowed to exist only for a given duration.

2. Make-shift works include:

a/ Make-shift works in service of the construction of main works;

b/ Works and separate dwelling houses permitted to be constructed for a definite duration under the planning, for which construction grounds have not yet been cleared.

3. For make-shift construction works in service of main construction works, within thirty days after the main construction works are put into use, the owners of make-shift construction works shall have to dismantle such works by themselves, except for cases where make-shift works in service of main construction works are large-sized works or population quarters which conform with the approved construction plannings. For works and separate dwelling houses permitted to be constructed for a definite duration, when the duration inscribed in make-shift construction permits expires, the owners of such works shall have to dismantle their works by themselves. If they fail to voluntarily dismantle their works, they shall be forced to do so and have to bear all expenses for the forced dismantlement and are not entitled to compensation.

**Chapter VI**

**SELECTION OF CONSTRUCTION CONTRACTORS AND CONTRACTS**

**Section 1. SELECTION OF CONSTRUCTION CONTRACTORS**

**Article 95.-** Selection of contractors in construction activities

1. Selection of contractors in construction activities shall be made for jobs, groups of jobs or all jobs of formulation of construction detailed plannings, formulation of work construction investment projects, survey, designing, construction, supervision and other construction activities.

2. The selection of contractors aims to find contractors, general contractors and sub-contractors having full capability for construction operation or construction profession practice compatible with work types and grades.

3. Principal contractors or general contractors may assign part of contractual jobs to sub-contractors. Sub-contractors must have corresponding adequate capability for construction operation or construction profession practice and be accepted by the work construction investors; sub-contractors must not assign the whole job or principal job under contracts to other contractors.

4. The selection of contractors in construction activities must comply with the provisions of this Law and the legislation on bidding.

**Article 96.-** Requirements on the selection of contractors in construction activities

1. The selection of contractors must satisfy the following requirements:



- a/ Achieving the efficiency of work construction investment projects;
  - b/ Choosing contractors who fully meet the conditions on appropriate capability for construction operation or construction profession practice, and offer reasonable contracting prices;
  - c/ Objectivity, publicity, fairness and transparency.
2. Investment deciders and work construction investors may decide on modes of contractor selection.

**Article 97.-** Modes of selection of contractors in construction activities

Depending on the size, characteristics and capital sources for construction of works, investment deciders or work construction investors may select contractors by the following modes:

1. Unlimited bidding, limited bidding;
2. Contractor appointment;
3. Selection of contractors for construction work architecture designing.

**Article 98.-** Requirements on bidding in construction activities

1. Bidding in construction activities aims to select appropriate contractors, thus ensuring the competitiveness.
2. Bidding shall be held only when capital sources for work execution are determined.
3. The bidding duration must not be prolonged in order to ensure the set progress and efficiency of work construction investment projects.
4. Bid-winning parties must have optimal technical and technological schemes and reasonable tender prices.
5. Domestic contractors participating in international biddings in Vietnam shall enjoy the preferential regimes provided for by the Government.
6. It is prohibited to use the legal person status of other organizations to participate in biddings; pre-fix, purchase and sell bids; exert one's influence to falsify bidding results or offer tender prices lower than construction costs of works.

**Article 99.-** Unlimited biddings in construction activities

1. Unlimited biddings shall be held to select work construction contractors with unlimited number of participating contractors.
2. Bid inviters must publicize on the mass media the conditions and time limit for submitting the bidding dossiers.
3. Bidders shall be allowed to participate in biddings only when they fully satisfy the conditions on capability for construction operation or construction profession practice compatible with work types and grades according to the conditions notified by the bid inviters.
4. Bid inviters shall have to announce on the mass media the bid evaluation results and bid-winning prices.

**Article 100.-** Limited bidding in construction activities

1. Limited bidding shall be held to select construction consultancy contractors and work construction contractors for construction works with high technical requirements from a limited number of contractors fully satisfying the conditions on capability for construction operation or construction profession practice invited to participate in biddings.

2. For work construction investment projects or works financed with the State capital, two or more enterprises of the same corporation, a corporation and a member company, a parent company and an affiliated company, a joint-venture enterprise and a capital contributor thereto shall not be allowed to participate together in bidding in a bidding package.

**Article 101.- Contractor appointment in construction activities**

1. Investment deciders or work construction investors may directly appoint an organization or individual fully satisfying the conditions on capability for construction operation or construction profession practice to perform jobs or construct a work at reasonable prices in the following cases:

a/ State-secret works, work constructed under urgent orders, make-shift works;

b/ Works of research or experimental nature;

c/ Small-sized and simple jobs, construction works or work items, as provided for by the Government;

d/ Renovation, embellishment and restoration of cultural heritage works, historical-cultural relics;

dd/ Other special cases permitted by the persons competent to decide investment.

2. Persons competent to appoint contractors shall be held responsible before law for the selection of contractors with full capability for construction operation or construction profession practice.

3. Organizations and individuals appointed as contractors must have full capability for construction operation or construction profession practice compatible with jobs, work types and grades; and have a healthy and transparent financial status.

**Article 102.- Selection of construction work architecture designing contractors**

1. The selection of construction work architecture designing contractors shall apply to the construction works defined in Article 55 of this Law.

2. Authors of selected architecture designing plans are given priority to perform the subsequent designing steps if they have full capability for construction designing operation or work construction designing practice.

**Article 103.- Selection of general contractors in construction activities**

1. Depending on the size, nature, type and grade of works and specific conditions of work construction investment projects, the investment deciders or the work construction investors shall decide on the following forms of selection of general contractors in construction activities:

a/ Designing general contractors for performing all jobs of work construction designing;

b/ Construction general contractors for performing all jobs of work construction;

c/ General contractors for performing all jobs of designing and construction of works;

d/ General contractors for performing all jobs of designing, supply of materials and equipment and construction of works;

dd/ Turn-key general contractors for performing jobs in package from project formulation to designing, supply of materials and equipment and construction of works.

2. Independent contractors or partnerships participating in bidding in construction activities must fully satisfy the conditions on capability for construction operation compatible with work type and grade according to the provisions of this Law.

3. For cases where the form of general contractors defined in Clause 1 of this Article is applied, the general contractors must appoint persons fully satisfying the conditions on capability for construction profession practice to coordinate all jobs of the general contractors.

#### **Article 104.-** Rights and obligations of bid inviters

1. Bid inviters have the following rights:

a/ To request bidders to supply necessary information in service of the selection of contractors;

b/ To select bid-winning contractors or cancel results of the selection of contractors according to the provisions of bidding legislation;

c/ Other rights provided for by law.

2. Bid inviters have the following obligations:

a/ To compile bidding dossiers and bidding plans compatible with contents of the approved work construction investment projects;

b/ To examine the declaration of the capability for construction operation or capability for construction profession practice and financial status of the chosen bidders;

c/ To supply in full and on time capital sources for performing jobs according to schedule;

d/ To notify necessary requirements to the bidders and strictly observe the notified contents;

dd/ To publicize bid-winning units and bid-winning prices for construction works funded with the State capital after contractor selection results are obtained;

e/ To purchase insurance for works;

g/ To make compensations for damage incurred due to their faults by contractors participating in bidding;

h/ To be held responsible before law for acts of pre-fixing, purchasing and/or selling bids, disclosing information upon the bid consideration or conniving with contractors and other acts of violation of the bidding legislation.

i/ Other obligations provided for by law.

#### **Article 105.-** Rights and obligations of bidders

1. Bidders have the following rights:

a/ To participate in bidding as independent contractors or in partnership with other contractors;

b/ To request the supply of information or survey sites in order to compile bid dossiers;

c/ To lodge complaints or denunciations when detecting acts of violating the regulations on selection of contractors;

d/ Other rights provided for by law.

2. Bidders have the following obligations:

a/ To compile bid dossiers in a truthful and accurate manner, ensuring the requirements on bidding invitation dossiers;

b/ To be held responsible before law for their acts of violating the provisions in Clause 6, Article 98 of this Law;

c/ To compensate for damage caused by their acts of violation, which lead to prolongation of bidding or re-bidding;

d/ To underwrite bids according to regulations;

dd/ Other obligations according to provisions of law.

**Article 106.-** Responsibilities of work construction investment deciders in the contractor selection

1. To inspect and handle violations and settle complaints and denunciations in the contractor selection.

2. To suspend the contractor selection, cancel the contractor selection results when detecting violations in the contractor selection.

3. To be held responsible before law for and make compensations for damage caused by their decisions.

## **Section 2. CONTRACTS IN CONSTRUCTION ACTIVITIES**

**Article 107.-** Contracts in construction activities

1. Contracts in construction activities are established for jobs of elaboration of construction plannings, formulation of work construction investment projects, construction surveys, work designing, supervision and construction of works, management of work construction projects and other jobs in construction activities.

2. Contracts in construction activities are established in writing in compliance with the provisions of this Law and other relevant law provisions.

3. Depending on the sizes and characteristics of works, types of jobs, relations between parties, contracts in construction activities may have many types with different contents.

**Article 108.-** Principal contents of contracts in construction activities

A contract in construction activities includes the following principal contents:

1. Content of the job to be performed;

2. Quality and other technical requirements of the job;

3. Performance duration and schedule;

4. Conditions for pre-acceptance test and hand-over;

5. Price and payment mode;
6. Warranty duration;
7. Liability for contract breaches;
8. Other agreements according to each type of contract;
9. Language used in the contract.

**Article 109.-** Adjustment of contracts in construction activities

1. Contracts in construction activities shall be adjusted only when the investment deciders so permit in the following cases:

- a/ When work construction investment projects change;
- b/ When the State changes the relevant policies;
- c/ Force majeure circumstances.

2. Persons who permit the adjustment of contracts shall be held responsible before law for their decisions and have to make compensations for damage caused by such decisions.

**Article 110.-** Contractual rewards, fines for contractual breaches and settlement of contractual disputes in construction activities

1. The contractual rewards or fines for contractual breaches must be inscribed in the contracts.
2. For works constructed with the State capital source, the reward level must not exceed 12% of the value of the profitable contract part and the fine level must not exceed 12% of the value of the breached contract part. Reward funding source shall be deducted from the profits brought about by the early use or exploitation of quality works or rational savings of expenses for the performance of contracts.
3. In cases where contractual disputes arise in construction activities, the disputing parties shall have to negotiate and settle them by themselves. In cases where the parties fail to reach an agreement, the settlement of disputes shall be made through conciliation, arbitration or court proceedings according to law provisions.

**Chapter VII**

**THE STATE MANAGEMENT OVER CONSTRUCTION**

**Article 111.-** Contents of the State management over construction

1. Elaborating, and directing the implementation of, strategies and plans on development of construction activities.
2. Promulgating, and organizing the implementation of, legal documents on construction.
3. Promulgating the construction rules and standards.
4. Managing quality and archiving construction work dossiers.
5. Granting and withdrawing assorted permits in construction activities.
6. Guiding, examining, inspecting and settling complaints and denunciations, and handling violations in construction activities.

7. Organizing scientific and technological research in construction activities.
8. Training human resources for construction activities.
9. Entering into international cooperation in construction activities.

**Article 112.-** Agencies performing the State management over construction

1. The Government performs the uniform State management over construction throughout the country.
2. The Ministry of Construction is answerable to the Government for the performance of uniform State management over construction.
3. The ministries and ministerial-level agencies, within the ambit of their respective tasks and powers, coordinate with the Ministry of Construction in performing the State management over construction.
4. The People's Committees of all levels shall have to perform the State management over construction in their respective localities according to the Government's decentralization.

**Article 113.-** The Construction Inspectorate

1. The Construction Inspectorate is the specialized inspectorate in charge of construction.
2. The organization and operation of the Construction Inspectorate are prescribed by the Government.

**Article 114.-** Tasks of the Construction Inspectorate

The Construction Inspectorate has the following tasks:

1. To inspect the observance of the construction legislation;
2. To detect, prevent and handle according to its competence or propose the competent State agencies to handle violations of the construction legislation;
3. To verify and propose the competent State agencies to settle construction-related complaints and denunciations.

**Article 115.-** Rights and responsibilities of the Construction Inspectorate

1. The Construction Inspectorate has the following rights:

- a/ To request concerned organizations and individuals to supply documents and explain necessary matters;
- b/ To request the examination of contents related to the quality of works in case of necessity;
- c/ To apply deterrent measures according to law provisions;
- d/ To make written records on inspection and handle violations according to its competence or propose the competent State management agencies to take handling measures;
- dd/ Other rights according to the provisions of law.

2. The Construction Inspectorate has the following responsibilities:

- a/ To perform the inspection functions, tasks, order and procedures as prescribed;

b/ To produce inspection decisions, inspector's cards to inspected subjects. The inspection must be recorded in writing;

c/ To be held responsible before law for their conclusions and make compensations for damage caused by wrong conclusions;

d/ To perform other responsibilities prescribed by law.

**Article 116.-** Rights and obligations of organizations and individuals subject to inspection

1. Organizations and individuals subject to inspection have the following rights:

a/ To request inspectors or inspection teams to clearly explain the inspection requirements;

b/ To lodge complaints and denunciations against law-breaking acts in inspection activities of inspectors.

2. Organizations and individuals subject to inspection have the following obligations:

a/ To create conditions for inspectors and inspection teams to perform their tasks;

b/ To supply documents, explain necessary contents and abide by conclusions of the Construction Inspectorate.

**Article 117.-** Right to lodge complaints and denunciations and responsibilities to settle them

1. Individuals have the right to lodge complaints and denunciations; organizations have the right to lodge complaints about acts of violating the provisions of this Law to competent State management agencies in charge of construction or initiate lawsuits at courts according to the provisions of the legislation on complaints and denunciations.

2. The competent State management agencies in charge of construction of all levels shall have to settle complaints and denunciations of organizations and individuals under their management. In cases where they receive complaints and denunciations beyond their competence, they shall have to forward them to the competent agencies and organizations for settlement and notify such in writing to the complainants and denouncers.

**Article 118.-** Complaints and denunciations and the settlement thereof

1. The complaints and denunciations and the settlement thereof shall comply with the provisions of the legislation on complaints and denunciations.

2. In the duration of complaints, denunciations or lawsuits, organizations and individuals shall still have to execute administrative decisions of the competent State management agencies in charge of construction. When decisions on settling complaints or denunciations are issued by the competent State management agencies in charge of construction or decisions or judgments of courts take legal effect, they have to abide by such decisions or judgments.

## **Chapter VIII**

### **COMMENDATION AND HANDLING OF VIOLATIONS**

**Article 119.-** Commendation

Organizations and individuals that record achievements in the construction management or construction activities shall be commended and/or rewarded according to law provisions.

**Article 120.-** Handling of violations

1. Persons who commit acts of violating the construction legislation and other relevant law provisions shall, depending on the nature and seriousness of their violations, be disciplined, administratively handled or examined for penal liability. In cases where their violations of the construction legislation cause damage to the State's interests, rights and legitimate interests of organizations and individuals, they shall have to make compensations therefor.

2. Works constructed at variance with plannings, works constructed without construction permits or not in compliance with granted construction permits, for works requiring the construction permits as prescribed, shall be entirely dismantled or have their violating parts dismantled.

## **Chapter IX**

### **IMPLEMENTATION PROVISIONS**

**Article 121.-** Handling of works constructed before the Construction Law takes effect and not in compliance with the provisions of this Law

The works constructed before the Construction Law takes effect and not in compliance with the provisions of this Law shall be handled as follows:

1. Construction works currently existing in conformity with the plannings but with inappropriate architecture shall be allowed to exist in their current state. The renovation, upgrading or repair of such works must comply with the provisions of this Law.

2. Construction works currently existing not in conformity with the plannings shall have handled as follows:

a/ Work owners shall be considered by the competent State agencies for being granted temporary construction permits with definite terms consistent with the implementation duration of the plannings when they wish to renovate, upgrade or repair their works;

b/ For works being relocated to the already planned areas, work owners shall enjoy compensations and supports according to law provisions.

3. For works permitted to be temporarily constructed for definite durations, if there appear demands to relocate them before the implementation duration of the planning or before the duration inscribed in temporary construction permits, compensations therefor shall be made according to law provisions.

**Article 122.-** Implementation effect

This Law shall take effect as from July 1, 2004.

**Article 123.-** Implementation guidance

The Government shall detail and guide the implementation of this Law.

This Law was passed on November 26, 2003 by the XI<sup>th</sup> National Assembly of the Socialist Republic of Vietnam at its 4<sup>th</sup> session.

**CHAIRMAN OF THE NATIONAL ASSEMBLY**



**Nguyen Van An**